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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,791	04/30/2001	Brandon Dillan Tinianov	7120	3178

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EXAMINER

MCCLOUD, RENATA D

ART UNIT	PAPER NUMBER
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2837

DATE MAILED: 10/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/845,791

Applicant(s)

TINIANOV, BRANDON DILLAN

Examiner

Renata McCloud

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MAX

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments, see Response, paper number 9, filed 25 September 2003, with respect to claims 1,2, and 4-7 have been fully considered and are persuasive. The final rejection of 14 July 2003 has been withdrawn.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and

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therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 1 recites the broad recitation "the total system resistance and the second airflow resistance are of relatively low values", and the claim also recites, "the total airflow resistance is around between 900 to 1300 MKS Rayls" which is the narrower statement of the range/limitation.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1,2, and 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al (U.S. Patent 5,824,973), in view of Kraft et al (U.S. Patent 6,182,787).

**Claim 1:** Haines et al teach a system for improved sound absorption with a substrate (14) of porous material and of a first air flow resistance (214/216/218); and a facing (16) material attached to the substrate and of a second air flow resistance (214/216/218), a total system resistance and the second air flow resistance are relatively low values (See. Fig.1, Fig. 5, and Column 8, lines 25-

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44). However Haines et al do not teach the total system airflow resistance is around between 900 to 1300 MKS Rayls.

Kraft et al teach an acoustic treatment having a total system airflow of around between 900 and 1300 MKS Rayls (e.g. Col. 4: 45-65 teaches a system resistance of 20 to 120 CGS Rayls which is equal to 200 to 1200 MKS Rayls). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the sound absorbing laminate taught by Haines et al to have a total system air flow resistance between 900 and 1300 MKS Rayls as taught by Kraft et al. The advantage of this would be effective low frequency sound absorption and enhanced broadband sound absorption characteristics.

**Claim 2:** Haines et al and Kraft et al teach the limitations of claim 1.

Referring to claim 2, Kraft et al teach the facing material (e.g. Fig. 3:102) has an airflow resistance of 360 MKS Rayls (e.g. Col. 4: 45-65).

**Claim 4** Haines et al and Kraft et al teach the limitations of claim 1.

Referring to claim 4, Haines et al teach the substrate is made of glass fiber, mineral wool, thermoplastic polymer fiber, thermosetting polymeric fiber, carbonaceous fiber, milkweed fiber, and foam insulation (e.g. Column 8:15-25).

**Claim 5:** Haines et al and Kraft et al teach the limitations of claim 1.

Referring to claim 5, Haines et al teach the substrate can be a ceiling tile (e.g. Column 1:22-29).

**Claim 6:** Haines et al and Kraft et al teach the limitations of claim 1.

Referring to claim 6, Haines et al teach a second facing material attached to the substrate (e.g. Column 3:8-14; Fig. 1).

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**Claim 7:** Haines et al and Kraft et al teach the limitations of claim 1.

Referring to claim 7, Haines et al teach the facing material and the second facing material form two opposite exterior surfaces of the system (e.g. Fig. 1, #16, #14).

***Conclusion***


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Renata McCloud whose telephone number is (703) 308-1763. The examiner can normally be reached on Mon.- Fri. from 8 am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached on (703) 308-3370. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Renata McCloud  
Examiner  
Art Unit 2837

RDM

  
**ROBERT NAPPI**  
**SUPERVISORY PATENT EXAMINER**